

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Criminal No.
07-cr-130-01-SM

Corey Donovan

ORDER

Re: (Document No. 102) Defendant's Motion for Redress

Ruling: Denied. The pending motion, apparently seeking relief under the provisions of 28 U.S.C. § 2255, is a second or successive petition that this court cannot consider absent prior approval by the United States Court of Appeals for the First Circuit. 28 U.S.C. § 2244(b)(3)(A). Petitioner's conviction became final when the period in which he could file an appeal expired, on or about March 25, 2009. He filed a motion for relief, construed to be a habeas petition, on May 25, 2010 (doc. no. 97), which was denied as untimely, and no appeal was taken from that denial. Petitioner then filed a second petition (Docket No. 10-cv-390-SM), dated August 24, 2010, which was also denied as 1) untimely generally, 2) as a second petition filed without prior authorization from the court of appeals, and 3) as untimely specifically under Section 2255(f) since the facts supporting his claims (similar to those raised now) could have been discovered through the exercise of reasonable diligence prior to sentencing. Petitioner sought a certificate of appealability from the court of appeals, but the court denied relief (Docket no. 10-2180), pointing out that the petition was untimely even allowing for additional time in which foundation facts could have been reasonably discovered.

Date: April 23, 2013


Steven J. McAuliffe
United States District Judge

cc:
Corey Donovan
Terry Ollila, Esq.